

# EXHIBIT 1

Gerald Thompson  
November 06, 2024

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1 IN THE UNITED STATES DISTRICT COURT  
2 FOR THE SOUTHERN DISTRICT OF TEXAS  
3 HOUSTON DIVISION

3 LANDSCAPE CONSULTANTS OF )  
4 TEXAS, INC., and )  
5 METROPOLITAN LANDSCAPE )  
6 MANAGEMENT, INC., )  
7 Plaintiffs, )  
8 v. ) Civil Action No. 4:23-cv-03516  
9 )  
10 CITY OF HOUSTON, TEXAS, )  
11 and MIDTOWN MANAGEMENT )  
12 DISTRICT, )  
13 Defendants. )

14 ORAL VIDEOTAPED DEPOSITION OF

15 GERALD THOMPSON

16 November 6, 2024

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18 ORAL VIDEOTAPED DEPOSITION OF GERALD THOMPSON,  
19 produced as a witness at the instance of the Defendants  
20 and duly sworn, was taken in the above-styled and  
21 numbered cause on the 6th day of November, 2024, from  
22 10:00 a.m. to 1:33 p.m., before Dawn McAfee, Certified  
23 Shorthand Reporter in and for the State of Texas,  
24 reported by computerized stenotype machine at the  
25 offices of Husch Blackwell LLP, 600 Travis Street, Suite  
26 2350, Houston, Texas 77002, pursuant to the Federal  
27 Rules of Civil Procedure and the provisions stated on  
28 the record or attached hereto.

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1 A. They're all -- it's our workforce, yes.

2 Q. Okay. Are -- are your employees shared between  
3 Landscape and Metropolitan?

4 A. Yeah, basically. Yeah, I mean, it's all pretty  
5 much one. Like I said, the only difference was a  
6 branding position back in 2006 when we purchased the  
7 company.

8 Q. Okay. What led you to maintain the separation  
9 between the two companies? If the difference was  
10 primarily with branding, why didn't you combine them?

11 A. I thought about doing that many times. It's --  
12 it's a -- kind of an administrative nightmare. In a lot  
13 of sense, closing one, and consolidation like that,  
14 would be tricky.

15 At one time, Metropolitan Landscape was  
16 HUB certified through Texas, and we'd grown the business  
17 too large to -- to requalify for that, so that was part  
18 of the reason. But since then, it's just kind of been  
19 the way it's been.

20 Q. Okay. Can you describe for me the structure of  
21 Landscape's business? I mean, how does it -- do you  
22 have landscaping crews? Supervisors who are under sort  
23 of a general manager? What's that structure look like?

24 A. Sure. As far as the operational side of it, we  
25 have a general manager. And then we have an operations

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1 span, we probably -- we had that contract for probably  
2 12 to 14 years of that 18.

3 Q. Okay. And what about for the -- for the Park  
4 contract?

5 A. About the same. Probably about the same.

6 Q. So right now your company is performing the  
7 landscape services for Baldwin Park and Glover Park?

8 A. Yes.

9 Q. Okay. For the Field Maintenance Services  
10 contract, that's the one that you did not get the  
11 current bid, correct?

12 A. The most recent current bid, yes.

13 Q. What was the scope of work under that contract?

14 A. Well, the scope of work was that the contractor  
15 was to provide eight, full-time employees, working  
16 Monday through Friday in the normal work hours. We were  
17 responsible for maintaining the entire Midtown District,  
18 other than the parks. And there might have been  
19 something else that was separate, you know, including  
20 trimming, maintenance, bed maintenance for the District.

21 Q. Can you tell me what injury you believe  
22 Metropolitan suffered because of Midtown's Minority  
23 Women and Disadvantaged Business Program?

24 A. Oh, yeah. I mean, you know, we lost the last  
25 contract because of it. We lost the next opportunity to

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1 keep doing the work because of the program.

2 Q. Okay. Do you intend to bid for that Field  
3 Services Project in the future, if it comes up for bid  
4 again?

5 A. Yes, of course. Depending on the -- the  
6 minority programs in that.

7 Q. Okay. Was the same Minority, Women, and  
8 Disadvantaged Business Program for Midtown applied to  
9 the contract for Baldwin and Glover Park?

10 A. I think so. I believe so.

11 Q. And then Metropolitan was awarded that contract  
12 even under that program, correct?

13 A. Yes.

14 Q. What do you understand to be the way that  
15 Midtown's Minority, Women, Disadvantaged Business  
16 Program operates?

17 A. Well, it's different than the City's. There  
18 are -- I guess there's a factoring that they use. It's  
19 a point system that is weighed against all the other  
20 competitors. And you have price. You have reputation,  
21 minority contract, if you're a minority. And I believe  
22 there was one other. But the minority aspect of the --  
23 of the bid gives them a 10 percent advantage before  
24 anybody else comes in to bid on that, and that's the  
25 disadvantage.

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1 Q. Is it your understanding that that same policy  
2 has been in effect during the entire time that you have  
3 been bidding on work for Midtown, or do you think it's  
4 changed over the years?

5 A. There's been different variations over the  
6 years. But, again, we take that into consideration when  
7 we -- when we price it. You know, it's a valuable --  
8 it's a valuable contract to our company because it  
9 employes, you know, our eight people full time. And so,  
10 there's a risk of losing it. Where do you put these  
11 eight people if you lose it?

12 And so, we would take those things into  
13 consideration. Like, how do we make up that 10 percent  
14 disadvantage that we have? And there's very little ways  
15 to do that, other than your price. Because we had the  
16 reputation. We've never been fired. We always provided  
17 good service for Midtown.

18 Q. What about Landscape? What injury did  
19 Landscape suffer as a result of Midtown's Minority,  
20 Disadvantaged, Business Woman (sic) policy?

21 A. Landscape, not in itself, but as the collective  
22 businesses, they're one in the same.

23 Q. So you're not contending Landscape had a  
24 separate injury from Metropolitan as a result of  
25 Midtown's policy?

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1 A. Okay.

2 Q. So, in paragraph 36 in your complaint, it says,  
3 "Midtown Management District also communicates its MWDBE  
4 policy through its published criteria for evaluating  
5 bids."

6 Were you aware of what criteria was going  
7 to be used to evaluate your bid --

8 A. Absolutely.

9 Q. -- at the time you submitted it?

10 A. Absolutely.

11 Q. Okay. And how do you feel that the bidding  
12 criteria put your company at a disadvantage, either  
13 Landscape or Metropolitan?

14 A. Okay. Well, let's go to -- let's go to the  
15 Field Maintenance Project on Exhibit 6, page 4. It's  
16 where it shows you evaluation criteria.

17 Q. Okay.

18 A. All right. So, we've had this contract on and  
19 off, many, many years. And this is the same type of bid  
20 that we've always submitted -- similar. I'm not sure if  
21 this point system was always around, but in this  
22 particular case it is.

23 And so, the criteria say Financial  
24 Consideration is worth 50 points. Organizational  
25 Qualifications and References are 25 points. The

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1 Proposed Approach is 15 points. And Minority Women  
2 Disadvantaged Business Enterprises automatically get 10  
3 points starting out. So that puts me at a 10 percent  
4 disadvantage on the points system.

5 When we got the bid results, we won on  
6 Financial Consideration, which is a low-bid contract,  
7 which should be the primary objective, which it is  
8 because it's weighted so heavily. Organizational  
9 Qualifications and References. I'm sure we scored high  
10 on that. I was a little surprised at some of the other  
11 ones that Midtown had very little working relationship  
12 with scored as high as that. And the Proposed Approach,  
13 I'm sure we scored high on that because we'd had the  
14 contract on and off, and very little problems with the  
15 contract over the 15 -- 18 years we've had it, on and  
16 off.

17 So, right -- so when this was considered,  
18 we had to consider the -- the largeness of the contract  
19 and how it was part of our business, eight employees.  
20 We had to take -- we took the pricing down in order to  
21 compensate for that. But we lost the bid because we got  
22 no points for the Minority Program.

23 Q. Your company, in fact, was not the lowest  
24 bidder on the project, was it? If you look in the  
25 complaint, there's a bid chart that was included in your

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1 A. No. Immediately we moved them to other --  
2 other locations. I think a couple of people quit, but I  
3 don't -- I don't remember that specifically.

4 Q. Since Metropolitan lost its bid to perform the  
5 Field Maintenance Services Project for Midtown, about  
6 how many projects has Metropolitan successfully bid on?  
7 This is from November of 2022. So, basically, in the  
8 last two years, how many projects has Metropolitan  
9 successfully bid on?

10 A. Oh gosh, probably a dozen.

11 Q. All right. And what about Landscape?

12 A. Between the two of them, probably a dozen.

13 Q. Okay. You don't really separate that out too  
14 clearly in your mind as far as who has what contract?

15 A. It's not necessary.

16 Q. Okay. About, in the last two years, if you've  
17 gained about a dozen bids, how many bids have you lost?

18 A. Probably about seven or eight.

19 Q. Do you think generally your revenue for 2024 is  
20 more, equal or less than your revenue for 2022 for both  
21 of your companies?

22 A. Probably just a little bit more. That's --  
23 that's an estimate. I really don't have this in front  
24 of me.

25 Q. Yeah. You definitely -- you'd have to look at

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1 where Metropolitan lost a bid for doing work for  
2 Midtown, was because of the points that were added to a  
3 minority or woman-owned business, other than 2022 that  
4 we're talking about here?

5 A. I'm not sure when this was implemented. It  
6 doesn't seem like it was the entire time, but part of  
7 the time. I don't know if it was the last couple of  
8 times or all along. I don't remember, you know.

9 Q. Okay. So Metropolitan would be ready, willing  
10 and able to begin work for Midtown on the Field Services  
11 Project now, if asked?

12 A. Yes.

13 Q. Okay. Was Landscape ever asked to do that  
14 contract?

15 A. I don't think Midtown knows who Landscape is in  
16 that sense.

17 Q. Okay.

18 A. They know us as Metropolitan Landscape.

19 Q. So any work that y'all would do for -- for  
20 Midtown, Metropolitan would do? You wouldn't have  
21 Landscape do that work, correct?

22 A. Yeah. I think there's some confusion there.  
23 Midtown and -- or Metropolitan and Landscape are one in  
24 the same.

25 MS. WILCOX: Counsel, we've been going

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17  
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13 ORAL DEPOSITION OF GERALD THOMPSON

14 November 6, 2024

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16  
17 I, Dawn McAfee, Certified Shorthand Reporter  
18 in and for the State of Texas, do hereby certify to the  
19 following:

20 That the witness, GERALD THOMPSON, was duly  
21 sworn by the officer and that the transcript of the oral  
22 deposition is a true record of the testimony given by  
23 the witness;

24 I further certify that pursuant to FRCP Rule  
25 30(e) (1) that the signature of the deponent:

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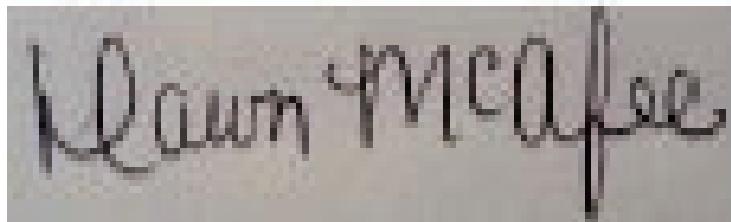
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1           X was requested by the deponent or a  
2 party before the completion of the deposition and is to  
3 be returned within 30 days from the date of receipt of  
4 the Signature Page contains any changes and the reasons  
5 therefor;

6                  was not requested by the deponent or a  
7 party before the completion of the deposition.

8           I further certify that I am neither counsel  
9 for, related to, nor employed by any of the parties or  
10 attorneys to the action in which this proceeding was  
11 taken. Further, I am not a relative or employee of any  
12 attorney of record in this cause, nor am I financially  
13 or otherwise interested in the outcome of the action.

14           Subscribed and sworn to on this \_\_\_\_\_  
15 day of \_\_\_\_\_, \_\_\_\_\_.  
16

17             
18  
19

20           Dawn McAfee  
21           Texas CSR No. 4578  
22           Expiration Date: 09/30/25  
23           U.S. Legal Support  
24           16825 Northchase Drive  
25           Houston, Texas 77060  
            Firm Registration No. 122

Midtown Management District - Field Maintenance Services Project  
November 2022

	Financial Considerations	Organizational Qualifications and References	Proposed Approach	Minority, Women, Disadvantaged Business Enterprise (MWDBE)	Comments	<b>AVG TOTAL</b>	
<b>ASSIGNED WEIGHT</b>	<b>0.50</b>	<b>0.25</b>	<b>0.15</b>	<b>0.10</b>			
Four Eleven, LLC	<b>50.00</b>	<b>14.63</b>	<b>10.28</b>	<b>10.00</b>		<b>84.90</b>	
Metropolitan Landscape Management	<b>46.14</b>	<b>24.58</b>	<b>14.25</b>	<b>0.00</b>		<b>84.98</b>	
On Duty Trees and Landscape	<b>23.14</b>	<b>12.71</b>	<b>2.88</b>	<b>0.00</b>		<b>38.73</b>	
SMC Landscape Services	<b>44.10</b>	<b>21.08</b>	<b>12.50</b>	<b>10.00</b>		<b>87.68</b>	
SV Multi-Services, LLC	<b>37.48</b>	<b>18.83</b>	<b>11.50</b>	<b>10.00</b>		<b>77.82</b>	
Yellowstone Landscape	<b>20.41</b>	<b>20.58</b>	<b>11.83</b>	<b>0.00</b>		<b>52.82</b>	



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